

U.S. DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION

UNITED STATES OF AMERICA,

Case No. 6:15-cr-00305-AA
OPINION AND ORDER

Plaintiff,

vs.

PAMELA JEAN GYGI, aka
PAMELA JEAN HAMILL,

Defendant.

AIKEN, District Judge:

Defendant Pamela Jean Gygi entered a guilty plea on January 23, 2017 to one count of use of interstate commerce facilities in the commission of murder-for-hire and one count of possession of a firearm in furtherance of a violent crime (doc. 33), and, on the same day, the Court signed a Preliminary and Final Order of Forfeiture for the firearms involved in the offenses (doc. 34).

On April 17, 2017, Cindy Lou Farmer filed a Petition for an Ancillary Hearing (doc. 42) in this case, indicating that she has an interest in one of the firearms subject to forfeiture.

On September 25, 2017, the Government served Farmer with discovery requests concerning her petition. Farmer failed to respond to those requests within 30 days and, on

November 2, 2017, the Government offered Farmer a two-week extension to respond. Farmer did not respond to the requests within the two-week extension period. On November 15, 2017, Farmer sent a fax to the United States Attorney's Office, stating that she was not going to "push[] the issue" and that she is "not going there anymore about this[.]" Mot. to Strike Ex. 1 (doc. 57).

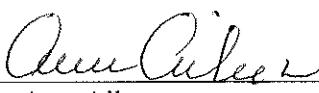
The Government has filed a Motion to Strike the Petition (doc. 57), asserting that Farmer's failure to respond to discovery requests and her fax are evidence of Farmer's intent to abandon her claim to the firearms.

"If, as prescribed by statute, a third party files a petition asserting an interest in the property to be forfeited, the court must conduct an ancillary proceeding[.]" Fed. R. Crim. P. 32.2(c)(1). In that proceeding, "the court may, on motion, dismiss the petition for lack of standing, for failure to state a claim, or for any other lawful reason." Fed. R. Crim. P. 32.2(c)(1)(A). Federal Rule of Civil Procedure 41(b) allows involuntary dismissal of an action "[i]f the plaintiff fails to prosecute or to comply with these rules."

Based on Farmer's communication with the Government, it appears that she no longer intends to pursue the petition and perhaps wishes to withdraw it. Given that response and lack of communication related to discovery, the Court finds that the Government has carried its burden and the Motion to Strike (doc. 57) is GRANTED.

IT IS SO ORDERED.

Dated this 5th day of November 2018.


Ann Aiken
United States District Judge